

## **§ 580.4**

### **§ 580.4 Contents of notice.**

The notice required by § 580.3 of this part shall:

(a) Set forth the determination of the Administrator as to the amount of the penalty and the reason or reasons therefor;

(b) Set forth the right to take exception to the assessment of penalties and set forth the right to request a hearing on such determination;

(c) Inform any affected person or persons that in the absence of a timely exception to a determination of penalty and a request for a hearing received within 15 days of the date of receipt of the notice, the determination of the Administrator shall become final and unappealable; and

(d) Set forth the time and method for taking exception to the determination and requesting a hearing, and the procedures relating thereto, as set forth in § 580.6 of this part.

### **§ 580.5 Finality of notice.**

If the person charged with violation does not, within 15 days after receipt of the notice, take exception to the determination that the violation or violations for which the penalty is imposed occurred, the administrative determination by the Administrator of the amount of such penalty shall be deemed final, and collection and recovery of the penalty shall be instituted pursuant to § 580.19 of this part.

### **§ 580.6 Exception to determination of penalty and request for hearing.**

(a) Any person desiring to take exception to the determination of penalty shall request an administrative hearing pursuant to this part. The exception shall be in writing to the official who issued the determination at the Wage and Hour Division address appearing on the determination notice, and must be received no later than 15 days after the date of receipt of the notice referred to in § 580.3 of this part. No additional time shall be added where service of the determination of penalties or of the exception thereto is made by mail.

(b) No particular form is prescribed for any exception to determination of penalty and request for hearing per-

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mitted by this part. However, any such request shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue(s) stated in the notice of determination giving rise to such request;

(4) State the specific reason(s) why the person requesting the hearing believes such determination is in error;

(5) Be signed by the person making the request or by an authorized representative of such person; and

(6) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

[56 FR 24991, May 31, 1991, as amended at 60 FR 17222, Apr. 5, 1995]

### **RULES OF PRACTICE**

### **§ 580.7 General.**

(a) Except as specifically provided in this subpart, and to the extent they do not conflict with the provisions of this subpart, the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under this subpart.

(b) Subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) shall apply except as follows: Notwithstanding the provisions of subpart B, including the hearsay rule (§ 18.802), testimony of current or former Department of Labor employees concerning information obtained in the course of investigations and conclusions thereon, as well as any documents contained in Department of Labor files (other than the investigation file concerning the violation(s) as to which the penalty in litigation has been assessed), shall be admissible in proceedings under this subpart. Nothing in this paragraph is intended to limit the admissibility of any evidence which is otherwise admissible under 29 CFR part 18, subpart B.

### **§ 580.8 Service and computation of time.**

(a) Service of documents under this subpart shall be made by delivery to